

L 7140

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

Application 17590    Permit 11364    License 7140

**ORDER AMENDING THE LICENSE BY ADDING MEASURING DEVICE  
CONDITIONS, CORRECTING THE PLACE OF USE AND POINTS OF  
DIVERSION DESCRIPTIONS, AND ADDING STANDARD LICENSE TERMS**

**WHEREAS:**

1. License 7140 was issued to Guido Bianchi on January 14, 1965 pursuant to Application 17590 and was recorded with the County Recorder of San Mateo County on January 15, 1965.
2. License 7140 was subsequently assigned to Oku Incorporated on October 14, 1966.
3. The Division of Water Rights (Division) conducted an inspection of the project covered by License 7140 on June 8, 1999. This inspection found that the licensee has no satisfactory means to confirm or ensure compliance with the existing license amounts or with the term requiring bypass of stream flow for the protection of fish.
4. The State Water Resources Control Board (SWRCB) has determined that in order to ensure continued compliance with existing conditions of the license, additional terms and conditions to License 7140 are necessary.
5. The SWRCB has determined that corrections in the descriptions of the place of use and points of diversion are required for License 7140.
6. The SWRCB will also add its standard continuing authority term, water quality objective term and a term to prevent any act which results in the taking of a threatened or endangered species that has been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

**NOW, THEREFORE, IT IS ORDERED THAT:**

The following terms and conditions be added to License 7140:

1. The Point of Diversion to Offstream Storage is corrected as follows:  
(1) By California Coordinates System of 1927, Zone 3, North 273,542 feet and East 1,455,477 feet, being within NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 14, T8S, R5W, MDB&M
2. The Point of Diversion, Rediversion and Storage is corrected as follows:  
(2) By California Coordinates System of 1927, Zone 3, North 274,643 feet and East 1,454,876 feet, being within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 14, T8S, R5W, MDB&M
3. A Place of Storage is added as follows:  
At Reservoir No. 2 being within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 14, T8S, R5W, MDB&M
4. The place of use authorized by this license will be corrected as follows:  
8 acres within NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Projected Section 14, T8S, R5W, MDB&M  
17 acres within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Projected Section 14, T8S, R5W, MDB&M  
13 acres within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Projected Section 14, T8S, R5W, MDB&M  
19 acres within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Projected Section 14, T8S, R5W, MDB&M  
57 acres total, as shown on map on file with the State Water Resources Control Board
5. A term requiring a device to measure the diversions under this license from Butano Creek is added as follows:  
  
No water shall be diverted under this license until the licensee installs and maintains an in-line flow meter, acceptable to the Division, that is capable of measuring the instantaneous diversion rate and the cumulative amount diverted to storage under this license. Licensee shall maintain a record of the end-of-the-month meter readings and of the days of actual diversion, and shall submit these monthly records with the triennial report of licensee, or whenever requested by the Division.  

(0100900)
6. A term requiring a measuring device to ensure compliance with the bypass condition of this license is added as follows:  
  
Licensee shall install a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow required by the

conditions of this permit. Said measuring device shall be properly maintained. However, a single measuring device, installed and maintained jointly by all water users on Lower Butano Creek, located at a position on the creek acceptable to the Department of Fish and Game and the State Water Resources Control Board may be substituted.

(0060062)

7. The term requiring bypass of water for the protection of fish in Butano Creek is corrected as follows:

Licensee shall during the period from December 1 to about April 1, bypass a minimum of 3 cubic feet per second or the natural flow of the stream whenever it is less than 3 cubic feet per second at the point of diversion. If the joint streamflow measuring site operated by the Butano Creek Users Group is used to satisfy this flow condition, a minimum of 3.78 cubic feet per second must exist at this measuring site before diverting water under this license.

(0140060)

8. The continuing authority condition, is updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

9. The water quality objectives condition, is updated to read as follows:

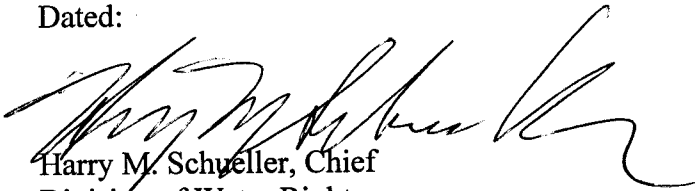
The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the California Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

10. An endangered Species term is added to read as follows:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (California Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

**OCT 26 2000**

Dated:



Harry M. Schueller, Chief  
Division of Water Rights



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 17590

PERMIT 11364

LICENSE 7140

THIS IS TO CERTIFY, That

Guido Bianchi  
P. O. Box 234  
Pescadero, California

has made proof as of June 27, 1963,  
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of

(1) Big Butano Creek (2) an unnamed stream in San Mateo County

tributary to (1) Pescadero Creek thence Pacific Ocean  
(2) Big Butano Creek thence Pescadero Creek thence Pacific Ocean

for the purpose of irrigation use  
under Permit 11364 of the State Water Rights Board and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from May 9, 1957, and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed forty (40) acre-feet per annum to be collected from about December 1 of each year to about April 1 of the succeeding year.

The maximum rate of diversion to off-stream storage has been 350 gallons per minute.

The points of diversion of such water are located :

- (1) North two hundred thirty (230) feet and west one thousand six hundred (1600) feet from center of projected Section 14, T8S, R5W, MDB&M, being within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 14.
- (2) South one thousand four hundred (1400) feet and west two thousand two hundred (2200) feet from N $\frac{1}{4}$  corner of projected Section 14, T8S, R5W, MDB&M, being within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 14.

A description of the lands or the place where such water is put to beneficial use is as follows:

21 acres within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 14, T8S, R5W, MDB&M.  
36 acres within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 14, T8S, R5W, MDB&M.  
57 acres total

Licensee shall during the period from about December 1 to about April 1 bypass a minimum of three (3) cubic feet per second or the natural flow of the stream whenever it is less than three (3) cubic feet per second at the point of diversion to maintain fishlife.

0140060

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

*This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

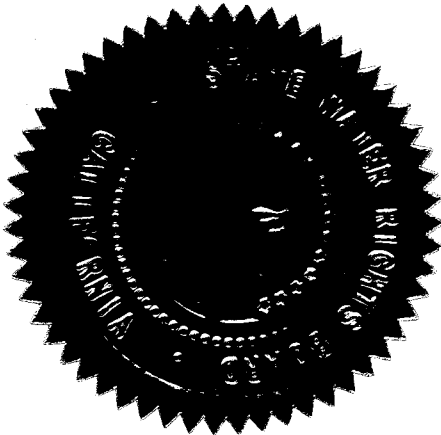
Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: JAN 14 1965



*L. K. Hill*  
L. K. Hill  
Executive Officer

*10-3-66*  
*ated*

RECEIVED NOTICE OF ASSIGNMENT TO *Chu, Incorporated*

LICENSE 7140  
STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

LICENSE  
TO APPROPRIATE WATER

ISSUED TO Guido Bianchi

DATED JAN 14 1965

MAR 12 1965  
D.R.

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